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Security Council Committee established pursuant to resolution 1718 (2006)

Note verbale dated 1 March 2017 from the Permanent Mission of Switzerland to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Switzerland to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1718 (2006) and has the honour to transmit herewith the report prepared by Switzerland pursuant to Security Council resolution 2321 (2016) (see annex).

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Annex to the note verbale of 1 March 2017 from the Permanent Mission of Switzerland to the United Nations addressed to the Chair of the Committee

Report of Switzerland on the implementation of Security Council resolution 2321 (2016)

Pursuant to paragraph 36 of resolution 2321 (2016) of 30 November 2016, Switzerland has the honour to provide to the Security Council Committee established pursuant to resolution 1718 (2006) the following information concerning the implementation of the measures contained in resolution 2321 (2016).

On 22 February 2017, the Swiss Federal Council (the Government) amended the Ordinance instituting measures against the Democratic People's Republic of Korea* with a view to implementing the United Nations sanctions established in resolution 2321 (2016). The Federal Act of 22 March 2002 concerning the implementation of international sanctions (Embargo Act) provides the legal basis for the Ordinance.

Paragraph 3 of resolution 2321 (2016)

Switzerland is enforcing the provisions of paragraph 8 (d) and (e) of resolution 1718 (2006) by means of articles 2, 9 and 10 of the Ordinance. On 4 March 2016, the Swiss Federal Council adopted the Ordinance on the automatic application of the United Nations Security Council Sanctions Lists. Any changes to the list of individuals or entities subject to sanctions measures imposed by the Security Council are directly applicable in Switzerland. There are currently 39 individuals and 42 entities that are subject to the provisions of articles 2, 9 and 10 of the Ordinance.

Paragraphs 4 and 7

Switzerland is enforcing the sanctions provided for in subparagraphs 8 (a), (b) and (c) of resolution 1718 (2006) by means of article 5 and annex 2 of the Ordinance. Paragraphs 4 and 7 of resolution 2321 (2016) aim to extend the measures to the items listed in annex III of the resolution and to items in the new conventional arms dual-use list published by the Committee on 15 December 2016. These paragraphs are implemented by an amendment to annex 2 of the Ordinance.

Paragraph 5

Switzerland is enforcing the sanctions provided for in subparagraph 8 (a) (iii) of resolution 1718 (2006) by means of article 8 and annex 5 of the Ordinance. Switzerland has duly noted the clarification of the term "luxury goods" given in paragraph 5 of resolution 2321 (2016) and has taken this opportunity to increase the number of items listed under annex 5 (numbers 7, 8, 26 and 27) of the Ordinance.

* The text of the Ordinance is on file with the Secretariat and is available for consultation.

Paragraph 6

Switzerland is enforcing the sanctions provided for in paragraphs 14 to 16 of resolution 1874 (2009) and in paragraph 8 of resolution 2087 (2013) by means of paragraph 1 of article 17 of the Ordinance.

Paragraph 8

Switzerland is enforcing the provisions of paragraph 19 of resolution 2270 (2016) by means of article 15 of the Ordinance. Paragraph 8 of resolution 2321 (2016) prohibits all leasing, chartering or provision of crew services to the Democratic People's Republic of Korea, unless prior approval is given by the Committee. This paragraph is implemented by an addendum to article 15 which authorizes the State Secretariat for Economic Affairs to grant exemptions to the sanctions, in accordance with the decisions of the relevant Security Council Committee.

Paragraph 9

Switzerland is enforcing the sanctions provided for in paragraph 20 of resolution 2270 (2016) by means of paragraph 5 article 15 of the Ordinance.

Paragraph 10

Switzerland is enforcing the provisions of paragraph 17 of resolution 2270 (2016) by means of paragraph 1 of article 3 of the Ordinance. Switzerland has duly noted the clarification given in paragraph 10 of resolution 2321 (2016) and has taken this opportunity to increase the number of items listed in article 3, paragraph 1 of the Ordinance by prohibiting additional specialized training programmes.

Paragraph 11

New article 3, paragraph 2 of the Ordinance suspends all scientific and technical cooperation, except for cooperation in the field of medicine, with individuals or groups officially sponsored by or representing the Democratic People's Republic of Korea.

Paragraph 13

Switzerland is enforcing the provisions of paragraph 18 of resolution 2270 (2016) by means of article 17 of the Ordinance. Switzerland understands the concerns of the Security Council with respect to the personal luggage and checked baggage of individuals entering or leaving the Democratic People's Republic of Korea that may be used to transport items the supply, sale or transfer of which are prohibited under relevant Security Council resolutions. Switzerland has duly noted the clarification of the term "cargo" given in paragraph 13 of resolution 2321 (2016).

No airlines provide direct flights between Switzerland and the Democratic People's Republic of Korea. Consequently, the type of baggage control provided for above proves impossible because a passenger's final destination is not systematically known at the start of the voyage.

Furthermore, airline check-in personnel do not usually have the technical expertise regarding sanctions or the time needed to conduct such controls; sometimes, they do not even come into contact with baggage, for example when passengers use baggage-drop or self-check in services.

For these reasons, Switzerland has not issued any specific directives regarding travellers' luggage. It would be grateful if the Committee could provide clearer guidance on how such controls could be conducted in a practical manner.

Paragraph 15

However, Switzerland is enforcing paragraph 15 of resolution 2321 (2016) by means of subparagraph 1 (c) of article 2 of the Ordinance and prohibits the entry into or transit through its territory of individuals who violate the Ordinance or the relevant Security Council resolutions or who provide assistance to others in order to circumvent these legal provisions.

Paragraph 16

Paragraph 1 of new article 10a of the Ordinance prohibits diplomatic missions and consular posts of the Democratic People's Republic of Korea from having more than one bank account in Switzerland. Similarly, paragraph 2 of that article prohibits diplomatic or consular representatives of the Democratic People's Republic of Korea in Switzerland and members of their families from having more than one Swiss bank account per person.

Paragraph 5 of article 22 of the Ordinance has been amended to include the obligation to close by 31 March 2017 all supernumerary bank accounts in line with paragraphs 1 and 2 of article 10a of the Ordinance.

Pursuant to subparagraph 1bis of article 18 of the Ordinance, banks must inform the State Secretariat for Economic Affairs of all accounts they manage for diplomatic and consular offices and diplomatic representatives of the Democratic People's Republic of Korea.

Paragraph 18

Paragraph 3 of new article 10a prohibits the use of buildings owned or leased by the Democratic People's Republic of Korea for purposes other than diplomatic or consular activities.

Paragraph 22

Paragraph 6 of new article 15 of the Ordinance prohibits the provision of insurance or re-insurance service to vessels owned, controlled or operated by the Democratic People's Republic of Korea.

The exceptions under this paragraph are implemented by paragraph 7 of new article 15 of the Ordinance, which authorizes the State Secretariat for Economic Affairs to grant exemptions in line with the decisions of the relevant Security Council Committee, as long as the vessel is engaged in activities that are exclusively for livelihood or humanitarian purposes.

Paragraph 23

In order to implement the sanctions provided for in paragraph 23 of resolution 2321 (2016) concerning vessel and aircraft crewing services, Switzerland has introduced an addendum to article 15 of the Ordinance. Paragraph 2 of new article 15 of the Ordinance therefore includes not only a ban on providing crewing services (former article 15, paragraph 1), but now also prohibits the procurement of vessel and aircraft crewing services from the Democratic People's Republic of Korea.

Paragraph 24

The decisions taken in paragraph 24 of resolution 2321 (2016), namely, to deregister vessels belonging to the Democratic People's Republic of Korea and not to register any vessel deregistered by another Member State, have not been implemented by the Ordinance. In fact, such registrations do not exist in Switzerland and, in view of the relevant existing legislation, would not be permitted.

Paragraph 26

Switzerland is enforcing the provisions of paragraph 29 of resolution 2270 (2016) by means of article 7 of the Ordinance. The replacement outlined in paragraph 26 of resolution 2321 (2016) is implemented by an addendum to paragraphs 2 to 2ter of article 7. Coal exports from the Democratic People's Republic of Korea cannot exceed the overall limit set by the Security Council.

Paragraph 28

The raw materials subject to import restrictions are listed in annex 4 of the Ordinance. To enforce paragraph 28 of the resolution, the items mentioned therein were added to this annex.

Paragraphs 29 and 30

Paragraphs 1 to 3 of new article 7a of the Ordinance implement the prohibitions provided for in paragraphs 29 and 30. Paragraph 1 prohibits the procurement, purchase, import, transfer and transport of statues from the Democratic People's Republic of Korea. Paragraph 2 prohibits the sale, supply, export, transfer and transport of new helicopters and vessels to the Democratic People's Republic of Korea. Paragraph 3 authorizes the State Secretariat for Economic Affairs to grant exemptions where approved in advance by the relevant Security Council Committee.

Paragraph 31

In application of the decisions in paragraph 31, Switzerland has banned Swiss banks from opening or operating subsidiaries, branches, or representative offices and bank accounts in the Democratic People's Republic of Korea (article 12, paragraph 1 of the Ordinance). The State Secretariat for Economic Affairs may, subject to prior approval by the relevant Security Council Committee, grant exemptions to the sanctions provided for in paragraph 1, as long as the activities

envisaged involve humanitarian aid, diplomatic missions, United Nations actions or any other purposes in full compliance with relevant Security Council resolutions.

The obligation to close subsidiaries, branches and representative offices and bank accounts held by Swiss banks in the Democratic People's Republic of Korea by 31 March 2017 is implemented by an addendum to paragraph 4 of article 22 of the Ordinance.

Paragraph 32

Paragraph 32 of resolution 2321 (2016) is implemented by an amendment to article 13 of the Ordinance. Paragraph 1 of article 13 now prohibits any form of public or private financial support, without exception. Paragraph 2 of the article authorizes the State Secretariat for Economic Affairs to grant exemptions to the provisions of paragraph 1, subject to prior approval by the relevant Security Council Committee.

Paragraph 33

The option to expel from Swiss territory individuals working on behalf of or at the direction of a bank or financial institution of the Democratic People's Republic of Korea does not need to be regulated in the Ordinance, as there already exist in Switzerland several legal frameworks which allow this.

Paragraph 40

The option to seize items identified in inspections and the supply, sale, transfer or export of which are prohibited by relevant Security Council resolutions is already implemented by article 17, paragraph 1 of the Ordinance.

The amended Ordinance, dated 22 February 2017, and the annexes thereto are attached to the present report.*

* The text of the Ordinance is on file with the Secretariat and is available for consultation.